

1 IN THE HOUSE

BY KOPONEN

2

HOUSE BILL NO. 360

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act imposing a real estate conveyance tax; au-
7 thorizing certain municipalities to levy and collect
8 a real estate conveyance tax; amending the formal
9 requisites of recording a conveyance; and providing
10 for an effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 * Section 1. AS 43 is amended by adding a new chapter to read:

13

CHAPTER 33. REAL ESTATE CONVEYANCE TAX.

14

Sec. 43.33.010. TAX IMPOSED. There is imposed an excise tax
15 upon each conveyance of real property at the rate of one percent of
16 the selling price of the real property.

17

Sec. 43.33.020. TAX CONSTITUTES LIEN. The tax imposed by
18 AS 43.33.010 and the interest or penalties on the tax are a specific
19 lien upon each piece of real property conveyed from the time of con-
20 veyance until the tax has been paid.

21

Sec. 43.33.030. SELLER'S OBLIGATION TO PAY TAX. Payment of the
22 tax imposed by this chapter is the obligation of the seller.

23

Sec. 43.33.040. EVIDENCE OF PAYMENT. (a) The tax shall be paid
24 to and collected by the recorder of the recording district in which
25 the real property that was conveyed is located. The recorder shall
26 affix a stamp evidencing satisfaction of the lien to the instrument of
27 conveyance before its recording. A receipt issued by the recorder for
28 the payment of the tax imposed under this chapter is evidence of the
29 satisfaction of the lien of the tax and may be recorded in the manner

1 prescribed for recording satisfactions of mortgages.

2 (b) An instrument evidencing a conveyance subject to the tax may
3 not be accepted by the recorder for filing or recording under AS 40.17
4 until the tax has been paid and the stamp affixed. In a case in which
5 the tax is not due on the transfer, the instrument may not be accepted
6 for recording until suitable notation of the exception has been made
7 on the instrument by the recorder.

8 Sec. 43.33.050. REPORTING REQUIREMENTS FOR CONVEYANCE. The
9 department shall prescribe:

10 (1) minimum standards for uniformity in reporting, applica-
11 tion, and collection of the tax;

12 (2) a tax affidavit form that must contain, at least, the
13 following:

14 (A) identification of the seller and purchaser;

15 (B) description of the property involved, including
16 the tax parcel or account number;

17 (C) date of conveyance, type of instrument of convey-
18 ance, and nature of transfer;

19 (D) gross sales price of the parcel; and

20 (E) signatures of both the purchaser and seller, under
21 oath.

22 Sec. 43.33.060. DETERMINING SELLING PRICE. (a) The department
23 shall

24 (1) provide by regulation for cases where the selling price
25 is not separately stated or is not ascertainable at the time of con-
26 veyance, and for payment of the tax at a time when the selling price
27 is ascertained, in which case suitable security may be required for
28 payment of the tax; and

29 (2) provide for the determination of the selling price

1 under (1) of this subsection by an appraisal by the state assessor, a
2 municipal assessor, or a local appraiser, based on the full and true
3 market value of the property conveyed; an appraisal under this para-
4 graph is prima facie evidence of the selling price of the real prop-
5 erty.

6 (b) The department shall provide by regulation for the deter-
7 mination of the selling price in the case of a lease with option to
8 purchase, and may provide that the tax is not payable, if inequity
9 will otherwise result, until the option is exercised and accepted.

10 Sec. 43.33.100. DEFINITIONS. In this chapter

11 (1) "conveyance"

12 (A) means

13 (i) a grant, assignment, quitclaim, sale, or
14 transfer of the ownership of or title to real property, or
15 any estate or interest in real property for a valuable
16 consideration;

17 (ii) a contract for a conveyance, grant, assign-
18 ment, quitclaim, or transfer of real property;

19 (iii) a lease with an option to purchase real
20 property, or any estate or interest in real property; or

21 (iv) a contract under which possession of the
22 property is given to the purchaser, or another person at the
23 purchaser's direction, and title is retained by the seller
24 as security for the payment of the purchase price;

25 (B) does not include

26 (i) a lease, except a lease under (A)(iii) of
27 this paragraph;

28 (ii) a transfer by gift, devise, or inheritance;

29 (iii) a cancellation or forfeiture of a purchaser's

1 interest in a contract for the conveyance of real property,
2 whether or not the contract contains a forfeiture clause;

3 (iv) a deed in lieu of foreclosure of a mortgage
4 or the assumption by a grantee of the balance owing on an
5 obligation that is secured by a mortgage or deed in lieu of
6 forfeiture of the purchaser's interest in a contract of sale
7 of real property, where no consideration passes;

8 (v) a partition of property by tenants in common
9 by agreement or as the result of a court decree;

10 (vi) a transfer, conveyance, or assignment of
11 property or interest in property from one spouse to the
12 other in accordance with the terms of a decree of divorce or
13 in fulfillment of a property settlement agreement;

14 (vii) the assignment or other transfer of a sell-
15 er's interest in a contract for the sale of real property,
16 even though accompanied by a conveyance of the seller's
17 interest in the real property involved;

18 (viii) a transfer by appropriation or decree in
19 condemnation proceedings brought by the United States, the
20 state, or a municipality;

21 (ix) a mortgage or other transfer of an interest
22 in real property to secure a debt or the assignment of a
23 debt, or a document that reconveys or releases an interest
24 that was held to secure a debt;

25 (x) a transfer or conveyance made under an order
26 of sale by the court in a mortgage or lien foreclosure
27 proceeding or upon execution of a judgment, or deed in lieu
28 of foreclosure to satisfy a mortgage;

29 (xi) a conveyance to the Federal Housing

1 Administration or the Department of Veterans Affairs by an
2 authorized mortgagee made under a contract of insurance or
3 guaranty with the Federal Housing Administration or the
4 Department of Veterans Affairs;

5 (xii) a transfer in compliance with the terms of a
6 lease or contract upon which the tax as imposed by this
7 chapter has been paid or where the lease or contract was
8 entered into before January 1, 1990;

9 (xiii) the sale of a grave or lot in an established
10 cemetery;

11 (xiv) a sale by or to the United States, the state,
12 or a municipality;

13 (2) "real property" means an estate in land, and includes
14 mobile homes;

15 (3) "selling price"

16 (A) means the consideration, including money or any-
17 thing of value, paid or delivered or contracted to be paid or
18 delivered in return for the conveyance of the real property or an
19 estate or interest in real property;

20 (B) includes the amount of a lien, mortgage, contract
21 indebtedness, or other encumbrance, either given to secure the
22 purchase price or as a part of the purchase price, or remaining
23 unpaid at the time of conveyance of the real property or an
24 estate or interest in real property;

25 (C) does not include the amount of an outstanding lien
26 or encumbrance in favor of the United States, the state, or a
27 municipality for taxes or special assessments;

28 (4) "tax" means the real estate conveyance tax imposed by
29 AS 43.33.010.

1 * Sec. 2. AS 29.10.200 is amended by adding a new paragraph to read:

2 (51) AS 29.45.750 (real estate conveyance tax)

3 * Sec. 3. AS 29.45 is amended by adding a new section to read:

4 ARTICLE 6. REAL ESTATE CONVEYANCE TAX.

5 Sec. 29.45.750. REAL ESTATE CONVEYANCE TAX AUTHORIZED. (a) A
6 unified municipality and a first or second class borough may impose an
7 excise tax upon each conveyance of real property within the municipal-
8 ity. If the unified municipality imposes a tax, the rate of the tax
9 may not exceed one percent of the selling price of the real property.

10 (b) The tax levied by a unified municipality or first or second
11 class borough under (a) of this section shall be paid to and collected
12 by the recorder of the recording district in which the real property
13 that was conveyed is located. The recorder shall affix a stamp evi-
14 dencing satisfaction of the lien to the instrument of conveyance
15 before its recording. A receipt issued by the recorder for the pay-
16 ment of the tax imposed under this chapter is evidence of the satis-
17 faction of the lien of the tax and may be recorded in the manner
18 prescribed for recording satisfactions of mortgages.

19 (c) The recorder shall remit payment of the tax imposed by a
20 unified municipality or a first or second class borough under (a) of
21 this section to the municipality in which the real property that was
22 conveyed is located.

23 (d) An instrument evidencing a conveyance subject to the tax may
24 not be accepted by the recorder for filing or recording under AS 40.17
25 until the tax has been paid and the stamp affixed. In a case in which
26 the tax is not due on the transfer, the instrument may not be accepted
27 for recording until suitable notation of the exception has been made
28 on the instrument by the recorder.

29 (e) In this section,

- 1 (1) "conveyance" has the meaning given in AS 43.33.100;
2 (2) "selling price" has the meaning given in AS 43.33.100;
3 (3) "tax" means the real estate conveyance tax authorized
4 by (a) of this section.

5 (f) This section applies to home rule boroughs.

6 * Sec. 4. AS 40.17.030(a) is amended to read:

7 (a) To be eligible for recording, a document must be

8 (1) legible or capable of being converted into legible form
9 by a machine or device used in the recording office;

10 (2) capable of being copied by the method used in the
11 recording office;

12 (3) accompanied by the proper fee for recording and include
13 or be accompanied by information, stamps, certificates, taxes, or fees
14 that under AS 29.45.750, AS 43.33, and other laws are necessary to
15 qualify the document for recording;

16 (4) accompanied by or include the information needed to
17 index the document under regulations of the department;

18 (5) accompanied by or include the name and address of the
19 person to whom the document is to be returned after recording; and

20 (6) accompanied by or include the mailing addresses of all
21 persons named in the document who grant or acquire an interest under
22 the document if it is a conveyance; this paragraph does not apply to a
23 release of a security interest.

24 * Sec. 5. This Act takes effect January 1, 1990.